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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,492	08/27/2003	Chris Bender	FORE-104	5890

7590
Ansel M. Schwartz
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201 N. Graig Street
Pittsburgh, PA 15213

10/31/2007

EXAMINER

GREY, CHRISTOPHER P

ART UNIT	PAPER NUMBER
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2616

MAIL DATE	DELIVERY MODE
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10/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/649,492

Applicant(s)

BENDER ET AL.

Examiner

Christopher P. Grey

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 and 12 is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-8, 10 is/are rejected.
- 7) ☒ Claim(s) 4, 5 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-3,6-8,10 are rejected under 35 U.S.C. 102(e) as being anticipated by Klink (US 20050147050)

Claim 1, 6, 10 Klink discloses a first node and second node (**fig 2 TLN 1 and TLN 2 respectively**).

Klink discloses at least one intermediate node in communication with the first node and the second node (**fig 2, N1-N4 are equivalent to intermediate nodes**), the first node repeatedly (**para 0034, connectivity is checked repeatedly every time an MPLS network is brought into service or every time a complaint is made**) sending signaling (**para 0041, process can be achieved in that signaling methods are used**) through the intermediate node to the second node (**para 0032, OAM-ECHO packet sent in the source and para 0036**) and receiving the signaling back (**para 0039, feedback**) to establish and maintain a connection between the first node, second node and intermediate node (**para 0034, checks connectivity of path**).

Klink discloses means for dynamically placing connection points along the path through which the connection is established (**para 0037, location ID is inserted into**

Art Unit: 2616

OAM ECHO packet, where the location ID contains the assigned connection point) each time after signaling from the first node to the second node returns to the first node (para 0039, copied OAM-ECHO packet, containing assigned connection point/s is sent back to source).

Claim 2, 7 Klink discloses wherein the placing means also created fault management and performance monitoring conditions in the first, second and intermediate nodes (para 0030, where Klink discloses OAM packets being inserted into the flow for performance monitoring, where the OAM packets are processed at each of the nodes in the connection path. Furthermore, the use of OAM packets inherently implies the functions of fault indication, performance information and diagnosis and data information).

Claim 3, 8 Klink discloses wherein the placing means includes an OAM path matrix disposed at each node which identifies the connection points and the fault management and performance monitoring conditions (para 0036-0037, where a matrix by definition is the place or point from which something else originates. Para's 0036-0037 discloses at each node in the connection path, OAM packet processing , where a copy of an OAM-ECHO packet is originated. The assigned connection point is inserted into the copied OAM ECHO packet. See the rejection of claim 2 for fault management and performance monitoring) .

Allowable Subject Matter

2. Claims 11 and 12 are allowed.
3. Claims 4,5 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

4. Applicant's arguments filed on August 2, 2007 have been fully considered but they are not persuasive.
 - (a) The applicant argued that the cited art does not disclose the applicants claimed limitation, "dynamically placing connection points along the path through which the connection is established each time after signaling".

The examiner maintains that the claimed limitation interpreted in its broadest sense is taught within the cited art, wherein Klink discloses placing connection points at the source and sink (para 0027), where signaling allows the reconfiguration of sources and sinks during a connection (para 0025), where reconfiguring the sources and sinks reconfigures (reconfiguration allows a dynamic action) the associated connections points, equivalent to placing connection points dynamically. Furthermore, the location ID inserted after returning to the first node indicates the connection points in the event that a reconfiguration is necessary (see para's 36 and 37).

Art Unit: 2616

(b) The applicant argued that the examiner assumes that dynamically placing connection points each time after signaling from the first node to the second node returns to the first node is taught within Klink.

The examiner respectfully disagrees with the applicant's assumption, as the cited art Klink teaches inserting a location identifier into an OAM ECHO packet, where this location ID defines the connection point. Furthermore, Klink discloses the reconfiguration of connection points as described above in the response to arguments (a), where in the event of reconfiguration, the definition of connection points is also reconfigured.

Furthermore, for the purpose of clarity the examiner makes note that the limitation "placing connection points" is interpreted in its broadest sense, where placing may mean a number of things, including assigning, identifying employing, etc, making the limitation broad for interpretation.

(c) The applicant argued that the cited art does not disclose the applicants claimed OAM path matrix, which is a structure which stored the connection points.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a structure which stores the connection points) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

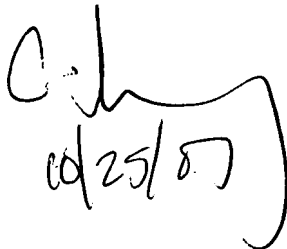
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Grey whose telephone number is (571)272-3160. The examiner can normally be reached on 10AM-7:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on (571)272-7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Art Unit: 2616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher Grey
Examiner
Art Unit 2616



10/25/07



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